

1 CABINET FOR HEALTH AND FAMILY SERVICES

2 Department for Medicaid Services

3 Division of Policy and Operations

4 (New Administrative Regulation)

5 907 KAR 18:001. Definitions for 907 KAR Chapter 18.

6 RELATES TO: 42 C.F.R. Part 413, 42 U.S.C. 1396a(a)(30)(A), 42 U.S.C.

7 1396a(a)(13)(A), 42 C.F.R. 447.204

8 STATUTORY AUTHORITY: KRS 194A.030(2), 194A.050(1), 205.520(3)

9 NECESSITY, FUNCTION, AND CONFORMITY: The Cabinet for Health and Family
10 Services, Department for Medicaid Services has responsibility to administer the Medi-
11 caid Program. KRS 205.520(3) authorizes the cabinet by administrative regulation, to
12 comply with any requirement that may be imposed, or opportunity presented, by federal
13 law to qualify for federal Medicaid funds. This administrative regulation establishes the
14 definitions for 907 KAR Chapter 18. Chapter 18 houses an administrative regulation
15 which establishes the Department for Medicaid Services' reimbursement provisions and
16 requirements regarding Veterans Affairs nursing facility services.

17 Section 1. Definitions. (1) "Allowable cost" means that portion of a facility's cost which
18 may be allowed by the department for reimbursement purposes.

19 (2) "Ancillary service" means an ancillary service as established in 907 KAR 1:023.

20 (3) "Capital costs" means capital costs as established in 42 C.F.R. 413.130 through
21 157.

(4) "Cost report" means a copy of the cost report that a VA NF submits to the Medicare program.

(5) "Department" means the Department for Medicaid Services or its designee.

(6) "Federal financial participation" is defined by 42 C.F.R. 400.203.

(7) "Global Insight Index" means an indication of changes in health care costs from year to year developed by Global Insights Index.

(8) "Pro forma cost data" means estimated cost data for a specific future period of time.

(9) "Prospective payment rate" means a payment rate for services based on allowable costs and other factors.

(10) "Recipient" is defined by KRS 205.8451(9).

(11) "State fiscal year" means the twelve (12)-month period beginning on July 1 of one year and ending on June 30 of the following year.

(12) "VA NF" means a nursing facility that is currently:

(a) Licensed by the Cabinet for Health and Family Services, Office of Inspector General as a nursing facility;

(b) Approved by the department for Medicaid program participation; and

(c) Certified by the United States Department of Veterans Affairs as a state veterans home.

(13) "Upper payment limit" means an amount of reimbursement that:

(a) Equates to a Veterans Affairs nursing facility's Medicaid-allowable cost; and

(b) Does not exceed the limit established in 42 C.F.R. 447.272.

907 KAR 18:001

REVIEWED:

Date

Lawrence Kissner, Commissioner
Department for Medicaid Services

APPROVED:

Date

Audrey Tayse Haynes, Secretary
Cabinet for Health and Family Services

907 KAR 18:001

PUBLIC HEARING AND PUBLIC COMMENT PERIOD

A public hearing on this administrative regulation shall, if requested, be held on May 21, 2014 at 9:00 a.m. in Suite B of the Health Services Auditorium, Health Services Building, First Floor, 275 East Main Street, Frankfort, Kentucky, 40621. Individuals interested in attending this hearing shall notify this agency in writing May 14, 2014, five (5) workdays prior to the hearing, of their intent to attend. If no notification of intent to attend the hearing is received by that date, the hearing may be canceled. The hearing is open to the public. Any person who attends will be given an opportunity to comment on the proposed administrative regulation. A transcript of the public hearing will not be made unless a written request for a transcript is made. If you do not wish to attend the public hearing, you may submit written comments on the proposed administrative regulation. You may submit written comments regarding this proposed administrative regulation until June 2, 2014. Send written notification of intent to attend the public hearing or written comments on the proposed administrative regulation to:

CONTACT PERSON: Tricia Orme, tricia.orme@ky.gov, Office of Legal Services, 275 East Main Street 5 W-B, Frankfort, KY 40601, (502) 564-7905, Fax: (502) 564-7573.

REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Administrative Regulation Number: 907 KAR 18:001
Cabinet for Health and Family Services
Department for Medicaid Services
Agency Contact: Stuart Owen (502) 564-4321

- (1) Provide a brief summary of:
 - (a) What this administrative regulation does: This administrative regulation establishes the definitions for administrative regulations in 907 KAR Chapter 18. Chapter 18 contains an administrative regulation which establishes the Department for Medicaid Services' reimbursement provisions and requirements regarding Veterans Affairs nursing facility services.
 - (b) The necessity of this administrative regulation: The administrative regulation is necessary to establish the definitions for administrative regulations in 907 KAR Chapter 18.
 - (c) How this administrative regulation conforms to the content of the authorizing statutes: The administrative regulation conforms to the content of the authorizing statutes by establishing the definitions for administrative regulations in 907 KAR Chapter 18.
 - (d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation will assist in the effective administration of the authorizing statutes by the definitions for administrative regulations in 907 KAR Chapter 18.
- (2) If this is an amendment to an existing administrative regulation, provide a brief summary of:
 - (a) How the amendment will change this existing administrative regulation: This is a new administrative regulation.
 - (b) The necessity of the amendment to this administrative regulation: This is a new administrative regulation.
 - (c) How the amendment conforms to the content of the authorizing statutes: This is a new administrative regulation.
 - (d) How the amendment will assist in the effective administration of the statutes: This is a new administrative regulation.
- (3) List the type and number of individuals, businesses, organizations, or state and local government affected by this administrative regulation: Veterans Affairs nursing facilities will be affected by the administrative regulation. Currently, there are three (3) such facilities operating in Kentucky – the Eastern Kentucky Veterans Center in Hazard, KY; the Thomson-Hood Veterans Center in Wilmore, KY; and the Western Kentucky Veterans Center in Hanson, KY. A fourth is scheduled to open in the Autumn of 2015 in Radcliff, KY.
- (4) Provide an analysis of how the entities identified in question (3) will be impacted

by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including:

- (a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment. No action is required as this administrative regulation establishes definitions for 907 KAR Chapter 18.
 - (b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3). No cost is imposed by the administrative regulation.
 - (c) As a result of compliance, what benefits will accrue to the entities identified in question (3). Veterans Affairs nursing facilities will be benefit due to the clarity resulting from terms being defined in an administrative regulation.
- (5) Provide an estimate of how much it will cost to implement this administrative regulation:
- (a) Initially: No cost is necessary to implement this administrative regulation.
 - (b) On a continuing basis: No cost is necessary to implement this administrative regulation.
- (6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: Federal funds authorized under the Social Security Act, Title XIX and state matching funds from general fund and restricted fund appropriations are utilized to fund the this administrative regulation.
- (7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change if it is an amendment. Neither an increase in fees nor funding is necessary to implement the administrative regulation.
- (8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: The amendment neither establishes nor increases any fees.
- (9) Tiering: Is tiering applied? (Explain why tiering was or was not used.) Tiering is not applied as the definitions apply equally to all entities regulated by this administrative regulation.

FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

Regulation Number: 907 KAR 18:001

Agency Contact Person: Stuart Owen (502) 564-4321

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Department for Medicaid Services and Kentucky Department of Veterans Affairs will be affected by this administrative regulation.
2. Identify each state or federal regulation that requires or authorizes the action taken by the administrative regulation. This administrative regulation authorizes the action taken by this administrative regulation.
3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.
 - (a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? DMS projects no revenue will initially be generated by this administrative regulation.
 - (b) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for subsequent years? DMS projects no revenue will be generated by this administrative regulation.
 - (c) How much will it cost to administer this program for the first year? DMS estimates that not cost is needed to implement this administrative regulation.
 - (d) How much will it cost to administer this program for subsequent years? DMS estimates that not cost is needed to implement this administrative regulation

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-):

Expenditures (+/-):

Other Explanation: